

CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

CITY OF ALBUQUERQUE (BOB HALL, AGENT) request(s) a special exception to Section 14-16-2-11(B)(5): a CONDITIONAL USE for a proposed daycare center for more than 12 children in an R-2 zone on all or a portion of Lot(s) 1-3 and 22-24, Block(s) 14, EMIL MANN ADDN zoned R-2, located at 500, 501, 502 & 509 ESPANOLA ST SE (L-19)

Special Exception No:..... **10ZHE-80227**
Project No: **Project#1008391**
Hearing Date: 08-17-10
Closing of Public Record: 08-17-10
Date of Decision: 08-31-10

STATEMENT OF FACTS: The applicant, City of Albuquerque, requests a conditional use to allow for a proposed daycare center for more than twelve children in an R-2 zone. Bob Hall, agent for the applicant, testified that the proposed daycare center would be part of a 66 unit affordable housing development sponsored by the City of Albuquerque to be developed by the Greater Albuquerque Housing Partnership. The daycare center will not only serve the residents of the apartment complex, but also residents of the surrounding neighborhood if space permits. The ages of the children will be infant age to 5 years of age. The days and hours of operation are Monday through Friday, 6:00 a.m. to 6:00 p.m. There will be no pets at this facility and there will be no transportation of any of the children to school. Also, this lot contains a chain link fence around the entire parcel so that the children may not leave the property. The yellow sign was posted.

Karen Tapia testified in opposition to this request. Ms. Tapia is a daycare owner in the area and stated that there are currently six other daycare facilities in the area. She believes an additional daycare center will have a negative financial impact.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C). 1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures. For reasons stated above, this request is approved.

DECISION: Approved.

If you wish to appeal this decision, you may do so by 5:00 p.m., on September 15, 2010 in the manner described below:

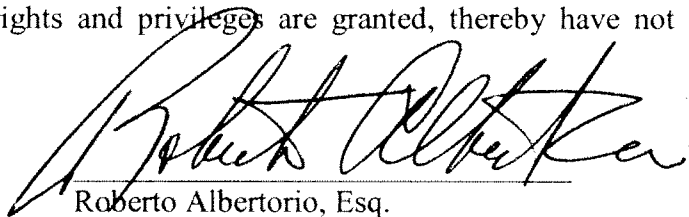
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellants.

Please note that pursuant to Section 14.16.4.4.(B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges granted, thereby have not been executed or utilized.



Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
City of Albuquerque, Robin Dozier, P.O. Box 1293, 87103
Bob Hall, 624 Tijeras Avenue NW, 87102
Karen Tapia, 502 Louisiana SE, 87108
Mirena Almener, 502 Louisiana SE, 87108